

**Statement of Paul Harrison
Clinic Coordinator
The Community Tax Law Project**

Good Morning, Commissioner Shulman, Director Hawkins, and Deputy Commissioner Ernst.

I am Paul Harrison, Clinic Coordinator of The Community Tax Law Project, a nonprofit low-income taxpayer clinic in Richmond, Virginia. CTLP has received federal funding under IRC §7526 since the inception of the low-income taxpayer clinic program in 1999. As a low-income taxpayer clinic, CTLP provides *pro bono* legal representation to low-income Virginia taxpayers in federal and state tax disputes and English as a Second Language (ESL) outreach programs to educate individuals who speak languages other than English on their rights and responsibilities as taxpayers. Our clinic provides tax controversy assistance and tax advice to over 600 low- and moderate-income taxpayers each year. Because CTLP provides assistance statewide, we work with diverse populations, including those residing in rural, urban, and predominately ESL areas. If you live and work in the United States, you must file and pay taxes. Few statements resonate with such authority and absoluteness. Yet because of the complexity of the Tax Code, the majority of American taxpayers are not able (or believe they do not have the wherewithal) to prepare their own returns. According to IRS data, over 60% of taxpayers paid practitioners to prepare and file their returns in 2006.

Many of CTLP's clients are low-income or lower middle-income taxpayers who simply are too afraid to prepare their own returns for fear of making a mistake. Approximately 75% of our clients pay someone else to prepare their returns. These paid preparers are almost exclusively unlicensed or "unenrolled." Many are employed by the top three commercial return preparation houses. Many are proprietors of smaller shops that advertise tax return preparation services. Sadly, some are individuals intentionally out to scam unsuspecting taxpayers.

As might be imagined, CTLP's work with low-income taxpayers provides us with the opportunity to review a lot of tax returns. Unsurprisingly, many tax controversies arise because of mistakes on tax returns, and many can be resolved by correcting mistakes or by providing substantiation for the claims made on the return. It may, however, come as a surprise to some that low-income taxpayers do not necessarily have simple tax returns. Many low-income taxpayers are self-employed. Many file returns which contain more than one Schedule C. Many have claims for the EITC which are complicated by disallowances in previous years or the claims of other taxpayers. Many may have had income from cancellation of indebtedness.

By far the largest number of LITC cases that demonstrate the need for change are those that involve the EITC and those that involve self-employed taxpayers. A program requiring preparers of such returns to certify their competence in these areas would be a distinct improvement.

Each year at CTLP, we receive a half-dozen or more phone calls from EITC-eligible taxpayers whose commercial return preparers have told them that they "cannot" file a tax return or cannot claim their children as qualifying children because their tax returns have been rejected for e-filing – usually because the children's social security numbers appear on another tax return. Beyond being bad advice, this practice delays and even

prevents eligible custodial parents from taking the steps necessary to claim the credit to which they are entitled and to enable the IRS to recover inappropriately issued EITC refunds from ineligible claimants.

Additionally, we encounter 4 – 6 cases per year of EITC disallowance for no reason other than the failure of the tax preparer to include Form 8862 with the tax return when the taxpayer has had a disallowance in an earlier tax year. We see similar numbers of cases in which tax returns have failed to include income from cancellation of debt or Form 982 to claim the exclusion of COD income. While it is safe to assume that taxpayers do not volunteer that they have previously been denied the EITC or that they have had income from COD, asking about these events ought to be a routine matter for tax preparers.

In all of these cases, the return preparer's conduct has cost the taxpayers money they can ill afford and wasted valuable IRS resources to the detriment of every taxpayer. A program of return preparer certification that requires preparers of EITC and self-employed taxpayer returns to demonstrate their competence in those areas before preparing such returns would significantly help to improve compliance on these types of returns.

Our conversations with the staff of other LITC programs suggest that our experiences at CTLP with unenrolled commercial preparers are typical. For that reason, we support the recommendations of the National Taxpayer Advocate regarding the registration, certification, and regulation of unenrolled tax return preparers contained in the NTA's 2002 and 2008 *Annual Reports to Congress*. We also support her recommendations for the provision of free tax preparation assistance to individual and business filers contained in the same reports.

Both of these recommendations are necessary in order to insure that low-income taxpayers receive competent advice and tax preparation service because far too many low-income taxpayers are not eligible for VITA programs or other forms of free tax return preparation and because these programs are not available for preparing prior-year and more complex tax returns.

In closing, I want to point out that I have been an unenrolled return preparer and that I have known a fair number of other unenrolled return preparers over the years. For the most part, they are conscientious professionals who provide a necessary service. A program to register, certify, and regulate such return preparers ought to focus, as Professor Leslie Book suggests, on enhancing the professionalism of return preparers and recognizing the crucial role they play in our federal system of taxation.